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## IN THE UNITED STATES DISTRICT COURT

## FOR THE NORTHERN DISTRICT OF CALIFORNIA

SIGMA DYNAMICS, INC.,

No. C-05-1852 MJJ

Plaintiff,

**ORDER DENYING TEMPORARY  
RESTRANDING ORDER**

v.

E.PIPHANY, INC.,

Defendant.

Before the Court is Plaintiff Sigma Dynamics' ("Plaintiff") motion for a temporary restraining order. Plaintiff seeks to enjoin Defendant Epiphany, Inc. ("Defendant") from disseminating false or misleading statements regarding the status of the state court trade secret case pending between Plaintiff and Defendant to any third party.

Courts apply one of two standards to determine whether a preliminary injunction should issue. To meet the "traditional" test, the movant must establish: (1) a strong likelihood of success on the merits; (2) that the balance of irreparable harm favors its case; and (3) that the public interest favors granting the injunction. *Am. Motorcyclist Ass'n v. Watt*, 714 F.2d 962, 965 (9th Cir. 1983). To prevail under the "alternate" test, the movant must demonstrate either a combination of probable success on the merits and the possibility of irreparable injury, or that serious questions are raised and that the balance of hardships tips sharply in its favor. *Id.*; *see also Diamontiney v. Borg*, 918 F.2d 793, 795 (9th Cir. 1990).

Having thoroughly read and considered the papers submitted by the parties, the Court finds

1 that Plaintiff has not established a strong likelihood of success on the merits of its claims.  
2 Moreover, Plaintiff has not adequately established that it will suffer irreparable injury if the  
3 preliminary injunction does not issue. Accordingly, Plaintiff's motion of a temporary restraining  
4 order is **DENIED**.

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6 **IT IS SO ORDERED.**  
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8 Dated: May 6, 2005  
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11 /s/  
12 MARTIN J. JENKINS  
13 UNITED STATES DISTRICT JUDGE  
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